

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department -Khammam District- Revision Petition filed by Sri Sanam Gopaiah S/o Late Chandraiah & Sri Mallela Nagaiah S/o Chinna Veeraiah and other aggrieved by the orders of the Addl.Agent to Govt., Bhadrachalam, CMA No.87/2005 Dt:22-09-2007- Rejected - Orders - Issued

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 5

Dated: 01-02-2018
Read the following:-

- 1) Proceedings of the Addl.Agent to Government and PO, ITDA, Bhadrachalam dated 22.09.2007 in CMA Np 87/2005.
- 2) Revision Petition filed by Sri Sanam Gopaiah S/o Late Chandraiah & Sri Mallela Nagaiah S/o Chinna Veeraiah Dt:18-12-2008
- 3) Govt.Memo.No.182/LTR-2/2009, dt 12.01.2009.
- 4) From the Addl.Agent to Government, Bhadrachalam, Khammam R.P.No.182/LTR-2/2008-1(CMA No.87/2005), dated 17.4.2009.
- 5) Govt.Lr.No.182/LTR-2/2009, dt 30.04.2016, dt. 24.06.2016, dt. 11.8.2016 , 22.09.2016, 29.10.2016 and dt.6.3.2017.

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ORDER

In the reference 2nd read above, Sri Sanam Gopaiah S/o Late Chandraiah & Sri Mallela Nagaiah S/o Chinna Veeraiah filed Revision Petition before the Government aggrieved by the orders of the Addl.Agent to Government, Bhadrachalam, CMA No.87/2005 Dt:22-09-2007 in respect of land in Sy.No.216/A measuring Ac. 9.00 Guntas of Machinenipeta Village, Julurpad Mandal of erstwhile Khammam District.

2. In the reference 3rd read above, the Project Officer & Addl. Agent to Government, Bhadrachalam was requested to furnish Para Wise Remarks and connected case records and in the reference 4th read above the Addl. Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

3. The main grounds of the Revision Petition are as follows:-

- The case was initiated on a report of the Special Deputy Tahsildar (TW), Bhadrachalam, before the Spl. Deputy Collector (TW) Bhadrachalam in LTR case No.889/2000/JLP between Sri Abdul Hamed Sipahi as Petitioner and Sanam Gopaiah, Vadanapau Rajaiah and Mallela Nagaiah as Respondents (Both are Non-Tribals).
- The Spl.Dy.Collector after due verification of the records has observed that the respondents Sri Vandanapu Rajaiah and Sri Mallela Nagaiah have failed to attend the court and also failed to produce the recorded evidence and also failed to reply to the notices. The respondent No. 1, Sri. Sanam Gopaiah has failed to produce the pahani extracts from 1964-65 onwards. Moreover having occupied the suit land in Agency area, the burden of the proof lies on the respondent to prove his title and possession over the suit land. It is clear that, the respondents were entered the suit land after enforcement of the Reg. 1/59 r/w Reg. 1/70, which is void under law.
- The Spl. Deputy Collector(TW) has further observed that as per the evidence, it is proved that the transfer of immovable property belonging to the Non-Tribal (petitioner herein) was made to the another Non-tribal in contravention of the sub-section 1 of the section-3 as laid in the Andhra Pradesh (Scheduled Areas) Land Transfer Regulation 1959 read with the Regulation 1 of 1970 after commencement of the said Regulation and as such it is null and void.
- In view of the above, the Spl. Deputy Collector(TW), Bhadrachalam ordered ejectment of the respondent or whomever is in possession of the immovable property in Sy Nos. 216/A and to extent of Acres 6-06, 1-14, 1-20 total 9-00 Acres in Nachinenipeta village of Khammam District and directed the immovable property in question be taken in to Govt. Custody under cover of panchanama and assign the same to the eligible Tribals, as per rules in force.
- Aggrieved by the above orders of Spl. Deputy Collector(TW), Bhadrachalam, Sri Sanam Gopaiah, S/o Chandraiah has filed an appeal before the Additional Agent to Government, Bhadrachalam, the Additional Agent to Government after due

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verification of the records has observed that the appellant contention is that the scheduled property was purchased on 2-4-1951 and 3-2-1956. But he has not filed any alleged sale deeds of those years. As per pahani 1964-65 one Sri Roudam Venkaiah is shown as enjoyer and Abdul Sayyad is pattadar. Even as per the pahani 1970-71 Abdul Ghani shown as pattadar and no one is shown as enjoyer. In the year 1971-72 only the name of Sri. Snanam Venkaiah finds place in enjoyer's column. Therefore it is confirmed that Sri. S. Venkaiah came into possession of land in the year 1971-72 which is after commencement of regulation and his possession is clearly void under law. As such the other pahanies filed by him are in no way help to the appellant.

- As seen in the Lower court order son of Sri Abdul Hameed Sipai deposed that his father purchased scheduled land during the year 1964 on stamp paper which is in "Urdu". He further deposed that his father sold away part of the schedule land to the respondent – 2 (Vandanapu Rajaiah) and R-3 (Mallela Nagaiah). In the lower court, the appellant herein ie., Sri Sanam Gopaiah has stated that the land was purchased in the year 1964. where as, in this court he has stated that the suit land was purchased in 1951 (sale deed) and 1956 (agreement). Therefore the version is not believable. This is highly misleading.
- In view of the above, Additional Agent to Government, Bhadrachalam has dismissed the appeal & directed the Tahsildar, Julurpad to take over the possession of the suit scheduled land into Govt. custody panchanama evicting the persons who ever in the possession & assign the same to the eligible tribal as per rules in force.

4. Aggrieved by the above orders, Sri Sanam Gopaiah, S/o Late Chandraiah has filed Revision Petition before the Govt., and he has stated that the Additional Agent to Government, Bhadrachalam, Khammam erred in not observing that even as can be seen from the order of the Spl. Deputy Collector(TW) , Bhadrachalam dated 25-05-2005 the petitioners produced a sale deed which is in Urdu written on a stamp paper bearing No. E-335113 an English translation of which clearly shows that the Pattadar of the land in Sy. No. 216 of Machinenipeta village, Khammam District, sold an extent of Ac.10-00 to Sri.Sanam Chandraiah, s/o: Muthaiah, R/o: Machinenipeta on 3-2-1956 but however, both the respondents 1 & 2 wrongly took the year of sale as 1964 contrary to the contents of the documents stated above.

The other grounds of the Revision Petition are as follows:-

- The Additional Agent to Government, Bhadrachalam erred in dismissing the appeal filed by the 1st petitioner Sri. Sanam Gopaiah verifying wrong Pahanis which does not relate to the land in question.
- The Additional Agent to Government , Bhadrachalam erred in not observing that the copies of the pahanies for the year 1964-65 which was available with them, shows that the name of Sri.Sanam Venkaiah was recorded as person in possession in respect of the land in Sy.No. 216/A of and that said Sri.Sanam Venkaiah and Sri.Sanam Chandraiah are brothers and constitute Joint family and that in partition between them Sri.Sanam Chandraiah got the land in Sy. No. 216/A Machinenipeta village stated above towards his share. It is not out of place to submit that 1st petitioner ie., Sri Sanam Gopaiah is son of late Sri. Sanam Chandraiah and inherited the said property from late Sri. Sanam chandraiah and 2nd petitioner Sri.Mallela Nagaiah is son-in-law of the 1st petitioner, Sri Sanam Gopaiah.
- The Additional Agent to Government erred in passing the eviction orders in respect of the land in question against the Petitioners without properly looking into the entries in Pahani for the year 1964-65 which discloses the name of Sri.Sanam Venkaiah who is the elder paternal uncle of the 1st petitioner Sri.Sanam Gopaiah as occupant of the land in question.
- The Additional Agent to Government, Bhadrachalam erred in not observing the partition of property in Agency area does not come under the definition of 'transfer' and as such the provisions of A.P. Scheduled Areas Land Transfer Regulation, 1959 as amended in 1970 have no application to the land in question which is in possession of the 1st petitioner.

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- The Additional Agent to Government, Bhadrachalam erred in not observing that as the name of elder paternal uncle of the 1st petitioner Sri.Sanam Gopaiah was recorded in the occupation column of the Pahani for the year 1964-65 and as admittedly the land in question is not patta land of any 'tribal' and as such the provisions of A.P. Scheduled Areas Land Transfer Regulation 1959 as amended in 1970 have no application to the land in question.
 - The Additional Agent to Government, Bhadrachalam erred in not observing that the findings recorded by them are contrary to the records and as such are perverse and that the Spl. Deputy Collector(TW), Bhadrachalam has no jurisdiction to initiate the Proceedings under the Provisions of A.P. Scheduled Areas Land Transfer Regulation in respect of the land in question as there is no 'transfer' of the land in question in favour of the revision petitioners after coming into force of Regulation 1 of 1970 which came into force w.e.f. 3-2-1970.
5. The remarks of the Addl. Agent to Government, Bhadrachalam on the revision petition are as under:
- The Revision petitioner's contention is that the petitioner produced a sale deed which is in 'Urdu' written on a stamp paper bearing No. E/3351131, and it's English translation which clearly shows that the schedule land was sold on 03-02-1956. But before the Additional Agent to Government, Bhadrachalam, the Revision petitioner has not filed any copy of alleged sale deed. Even as per pahani 1964-65 one Roudam. Sri.Venkaiah shown as enjoyer and Abdul Sayyad as pattadar. As per the 1970-71 pahani also one A. Ghani shown as pattadar and no one is shown as enjoyer. Only in the year 1971-72 the name of Sri. Sanam Venkaiah find place in enjoyer's column. This is a sufficient proof to say that Sri.S. Venkaiah came into possession of Schedule land after the commencement of the Land Transfer Regulation. Therefore the above allegation is not correct.
 - The Revision petitioner himself filed the pahanies saying that they are relevant for his case before the Additional Agent to Government, Bhadrachalam, but he is saying now in the Revision petition that the pahanies are not related to the scheduled land. He has not raised this objection before the lower courts.
 - As per pahani for the year 1964-65, Sri. A. Sayyad shown as pattadar, Roudam Venkaiah shown as enjoyer. It has already submitted that only in the pahani 1971-72 Sri. Sanam Venkaiah's name find place in enjoyer's column, that means his possession is clearly after commencement of Regulation and hit by Regulation 1/59 as amended by 1/70. Further as seen in the pahani extract for the year 1993-94 the name of Sri Abdul Ghanikhan Sipai shown as pattadar and Sri. Sanam Venkaiah and Sri.Sanam china Gopaiah as are the enjoyers and in Col.No. 15 it has been recorded as Kryam. It clearly violated the Land Transfer Regulation. Therefore it is not correct to say the respondent I & II erred in passing the eviction orders.
 - The Revision petitioner at first, has to explain whether their possession is lawful or not. When the acquisition of land is in accordance with law that property may be partitioned. But in this case the acquisition of land is itself hit by regulation and consequently the alleged partition are also hit by Land Transfer Regulation.
 - As per the records it is clear violation of regulation. Originally the scheduled land belongs to Abdul Sayyad family and it is in no way related to Sri. Sanam Gopaiah. As such it is clear violation and after perusing the records rightly lower court's passed orders.
 - On perusal of the records available in the file, it may be observed that, as per pahani for the year 1964-65, A. Sayyad shown as pattadar, Roudam Venkaiah shown as enjoyer. It was already submitted that only in the pahani 1971-72 Sri.Sanam Venkaiah's name find place in enjoyer's column,that means his possession is clearly after commencement of Regulation and hit by Regulation 1/59 as amended by 1/70. Further as seen in the pahani extract for the year 1993-94 the name of Sri Abdul Ghanikhan Sipai shown as pattadar and Sri.Sanam Venkaiah and Sri.Sanam china Gopaiah as the enjoyers and in Col.No. 15 it has been recorded as Kryam. It clearly violated the Land Transfer Regulation. Therefore it may be observed that the scheduled land belongs to Abdul Sayyad family and it is in no way related to Sri. Sanam Gopaiah.

6. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Addl.Agent to Government, Bhadrachalam, it is observed that;

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- The Revision Petitioner's main plea is that his father has purchased the land to an extent of Ac 10-00 in Sy.No.216 of Machinenipeta (V), Julurupadu (M) through a sale deed dt:03.02.1956 which was written in Urdu and on the death of his father he has become successor of the land. Further it is claimed that the 2nd Revision Petitioner is his son-in-law and that he has been in continuous possession from the date and hence the transfer is not hit by the Act of 1959 read with Act 1 of 1970.

As seen from the copy of sale deed in Urdu as well as translated into English dt:03.02.1956 which is written on Rs.1/- bond paper is not a regd. Sale deed. It can be treated as only sale agreement. Further as seen from the pahani submitted by Revision Petitioner his father was shown as enjoyer in Sy.No.216 to an extent of Ac 11-06 gts during the year 1964-65 and Sri Abdul Ghan is shown as enjoyer of the same land. As per the pahani submitted by him he is not shown as at least enjoyer of the land for the years from 1965-66 to 74-75. Further as verified from the connected file of Addl.Agent to Govt., Bhadrachalam it is shown in the pahani for the year 1964-65 Sri P.Veniah as enjoyer of S.No.216.

- Nothing prevented the Revision Petitioner from getting it registered if the land in question was actually purchased in the year 1956(3-2-1956). Further he is unable to produce pahani from 1957 onwards to prove that he was in continuous possession of the land as enjoyer by virtue of sada sale deed.

7. Government after careful examination of the matter here by rejects the Revision Petition filed by Sri Sanam Gopaiah S/o Late Chandraiah & Sri Mallela Nagaiah S/o Chinna Veeraiah and other and upholds the orders of the Addl.Agent to Government and Project Officer, ITDA, Bhadrachalam dt: 22-09-2007 in CMA No.87/2005 .

8. The Addl.Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradi Kothagudem District shall take necessary further action accordingly. The original case records received in the reference 4th read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To

- 1) Sri Sanam Gopaiah S/o Late Chandraiah Erstwhile
Khammam District now Bhadradi Kothagudem District.
- 2) Sri Mallela Nagaiah, S/o: Chinna Veeraiah R/o: Machinenipeta Village,
Julurupadu Mandal erstwhile Khammam and now Bhadradi Kothagudem District.
- 3) Sri Vandanapadu Rajaiah, R/o: Julurupadu V&M,
erstwhile Khammam and now Bhadradi Kothagudem District.
- 4) The Project Officer, ITDA and Additional Agent to Government,
Bhadrachalam, Bhadradi Kothagudem District (w.e.)

Copy to :

The District Tribal Development Officer, Bhadradi Kothagudem District.
The Spl. Deputy Collector(TW), Bhadrachalam, Bhadradi Kothagudem District
Now Bhadradi Kothagudem District for information and necessary action.
The Tahsildar, Julurupadu Mandal, Now Bhadradi Kothagudem District
for necessary action.
Sri Hari Sreedhar and others Advocates, # 106, Srinivasa Apartments,
Humayun nagar, Hyderabad.
P.S to M(TW)/P.S. to Prl.Secretary(TW)
SF/SC

//FORWARDED BY ORDER//

SECTION OFFICER